

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
NORTHEASTERN DIVISION**

**JOANNE PEARSON, as)
administrator of the Estate of)
Katherine Ann Daly, deceased,)
Plaintiff,)
v.) CASE NO.: _____
THE LAFAYETTE LIFE)
INSURANCE COMPANY, a)
corporation;)
Defendant.)**

NOTICE OF REMOVAL

COMES NOW defendant, The Lafayette Life Insurance Company (“Lafayette Life” or “Defendant”), by and through the undersigned counsel, and pursuant to 28 U.S.C. §§ 1331, 1332, and 1441, hereby gives notice of the removal of this action to the United States District for the Northern District of Alabama, Northeastern Division. As grounds for this removal, Defendant states as follows:

1. On or about May 31, 2017, Joanne Pearson, as administrator of the Estate of Katherine Ann Daly, deceased, (“Pearson” or “Plaintiff”) commenced a civil action against Lafayette Life in the Circuit Court of Madison County,

Alabama, now pending as Case No. 47-CV-2017-900922.00. The Circuit Court of Madison County, Alabama is a state court within this judicial district.

2. A copy of the Circuit Court of Madison County's file is attached hereto as **Exhibit A**. There have been no other process, pleadings or orders served to date other than those contained in Exhibit A.

3. This notice of removal is timely pursuant to 28 U.S.C. § 1446(b), which provides, in pertinent part, as follows:

The notice of removal of a civil action or proceeding shall be filed within thirty days after the receipt by the defendant, through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based, or within thirty days after the service of summons upon the defendant if such initial pleading has been filed in court and is not required to be served on the defendant, whichever period is shorter.

4. Lafayette Life was served with the summons and complaint on June 5, 2017. Therefore, this notice of removal is timely because it was filed within thirty (30) days of service of the summons and complaint.

5. This case is properly removable pursuant to 28 U.S.C. § 1441(a)-(b), which provide, in pertinent part, as follows:

(a) Except as otherwise expressly provided by Act of Congress, any civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant or the defendants, to the district court of the United States

for the district and division embracing the place where such action is pending.

...

(b)(2) A civil action otherwise removable solely on the basis of the jurisdiction under section 1332(a) of this title may not be removed if any of the parties in interest properly joined and served as defendants is a citizen of the State in which such action is brought.

28 U.S.C. § 1441(a), (b)(2).

I. DIVERSITY JURISDICTION

A. Citizenship Of The Parties.

6. This action is properly removable under 28 U.S.C. § 1441(a) and (b) because the United States District Court has original jurisdiction of this case under 28 U.S.C. § 1332(a), as amended, which provides, in pertinent, part, as follows:

(a) The district courts shall have original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between - -
(1) citizens of different States

7. Plaintiff is a citizen of Alabama. (Complaint, ¶ 1; *see also* Petition for Letters of Administration, **Exhibit B**, ¶ 3).

8. Defendant Lafayette Life is now, and was at the time of the commencement of this action, an insurance company organized and existing under the laws of the State of Ohio with its principal place of business in the State of Ohio. For purposes of diversity jurisdiction, Lafayette Life is a citizen of Ohio and

is not a citizen of the State of Alabama.

B. Amount In Controversy.

9. The amount in controversy in this action clearly exceeds the sum or value of \$75,000, exclusive of interest and costs.

10. This action concerns a dispute regarding payment of the death benefit under a life insurance policy. In the Complaint, Plaintiff asserts claims for breach of contract and negligence, stating that Lafayette Life should have paid her the policy proceeds, not Walter Punczik, Jr. (an unnamed third-party). (Complaint, ¶¶ 3-5).

11. Plaintiff seeks damages of \$84,740.17 in policy benefits allegedly owed to her. (*Id.*, ¶ 6). Plaintiff also seeks her attorneys' fees incurred in filing and litigating this action. (*Id.*, ¶ 7).

12. The amount of policy benefits alone (\$84,740.17) that Plaintiff seeks clearly exceeds the jurisdictional amount of \$75,000. Accordingly, the amount in controversy in this action exceeds the jurisdictional threshold.

II. ALL OTHER REQUIREMENTS FOR REMOVAL ARE SATISFIED

13. This case is a civil action within the meaning of the Acts of Congress relating to the removal of causes.

14. Defendant has heretofore sought no similar relief.

15. A copy of this notice is being filed with the Clerk of the Circuit Court of Madison County, Alabama, as provided under 28 U.S.C. § 1446. Defendant is also giving prompt written notice to Plaintiff of the filing of this Notice of Removal.

WHEREFORE, PREMISES CONSIDERED, Defendant Lafayette Life, requests that this Court take jurisdiction of this action and issue all necessary orders and process to remove this action from the Circuit Court of Madison County, Alabama, to the United States District Court for the Northern District of Alabama, Northeastern Division.

DATED this 3rd day of July, 2017.

Respectfully submitted,

s/Jason A. Walters

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CERTIFICATE OF SERVICE

I hereby certify that I have served the following by placing same in the U.S. Mail, postage prepaid and properly addressed, this 3rd day of July, 2017:

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s/Jason A. Walters
OF COUNSEL